

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

<p>R. ALEXANDER ACOSTA, SECRETARY OF LABOR, UNITED STATES DEPARTMENT OF LABOR,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>MARGARET MARANTO, individually, and MEERS STORE & RESTAURANT, INC., a corporation,</p> <p style="text-align: center;">Defendants/Judgment Debtors,</p> <p>And</p> <p>LIBERTY NATIONAL BANK,</p> <p style="text-align: center;">Garnishee.</p>	<p>CIVIL ACTION NO. CIV-15-1378-D</p> <p>MOTION FOR AN ORDER PERMITTING DEPOSIT OF FUNDS RECEIVED FROM GARNISHEE</p>
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The Secretary of Labor for the United States Department of Labor (the “Secretary”), pursuant to 28 U.S.C. § 3205(c)(7) of the Federal Debt Collection Procedures Act, moves the Court to enter an Order to permit the Secretary to deposit funds received from Garnishee, Liberty National Bank into a Department of Labor (“DOL”) account. In support of this Motion the Secretary states:

1. The judgment and cost awards in this matter, with interest through March 15, 2019, are in the aggregate sum of \$341,450.67.
2. The Writ of Garnishment issued by the Court was served upon Garnishee and Garnishee filed its Answer on April 8, 2019, indicating it held \$36,621.60 in an account for Defendant/Judgment Debtor, Meers Store and Restaurant, Inc.
3. Defendants/Judgment Debtors were each properly served with the Writ of Garnishment, Clerk’s Notice of Garnishment notifying them of their right to request a hearing,

and the Answer of Garnishee. Defendants/Judgment Debtors have not requested a hearing and the statutory time period to do so has elapsed. Thus all conditions necessary have been met for entry of an order requiring Garnishee to pay the funds to the Secretary. See 28 U.S.C. § 3205(5) and (7).

4. On April 12, 2019, the Secretary received a certified check from Garnishee in the sum of \$36,621.60. Because Garnishee's issuance of the check was contrary to the Court's direction to hold the funds until further order by the Court, the undersigned counsel for the Secretary contacted Defendants/Judgment Debtors present legal counsel, Stephen Moriarty,¹ to alert him of the receipt of the funds and to inquire whether Defendants/Judgment Debtors intended to request a hearing. Mr. Moriarty requested that the Secretary hold the funds until further discussion.

5. On April 30, 2019, Mr. Moriarty confirmed to the undersigned counsel for the Secretary that Defendants/Judgment Debtors did not intend to request a hearing and acknowledged that the time to do so had passed. Counsel for the Secretary advised Mr. Moriarty that he would seek a disposition order from the Court to permit deposit of the funds.

WHEREFORE, the Secretary requests that the Court enter an Order permitting the Secretary to deposit into a DOL account the funds received from Garnishee.

¹ Mr. Moriarty is an attorney with Fellers, Snider, Blankenship, Bailey & Tippens, P.C., 100 N. Broadway Ave., Suite 1700, Oklahoma City, OK 73102. He has entered an appearance in the appellate proceeding before the Tenth Circuit Court of Appeals. Mr. Moriarty has indicated that Defendants may withdraw their appeal. Defendants/Appellants' brief was due on May 1, 2019, but to date neither a brief nor a withdrawal notice has been filed with the Tenth Circuit.

Respectfully submitted,

Kate S. O'Scannlain, Solicitor of Labor
Connie M. Ackermann, Acting Regional Solicitor
John Rainwater, Associate Regional Solicitor
Lydia Tzagoloff, Counsel to Wage and Hour Division

/s/Tyler P. McLeod

Tyler P. McLeod,
Senior Trial Attorney
United States Department of Labor
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

Plaintiff has served the foregoing document upon the following individuals by U.S. Mail, postage prepaid, on this 6th day of May, 2019:

Stephen J. Moriarty
Fellers Snider
Cotter Tower
100 N. Broadway, Suite 1700
Oklahoma, City, OK 73102

TC Miller
Vice President-Operations Manger
Liberty National Bank
629 SW C Avenue
Lawton, OK 73501

/s/Tyler P. McLeod

Tyler P. McLeod,